

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**EZEQUIEL OLIVARES ABARCA,  
ALFREDO ALESNA, JR., DAVID CAGLE,  
STEPHEN L. DAVIS, FRANK EADS, and  
KENNETH J. SURMAN, individually and  
on behalf of all those similarly situated,**

**Plaintiffs,**

**v.**

**WERNER ENTERPRISES, INC.; DRIVERS  
MANAGEMENT, LLC; and DOES 1-100  
inclusive,**

**Defendants,**

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**WILLIAM SMITH, on behalf of himself, all  
others similarly situated, and on behalf  
of the general public,**

**Plaintiff,**

**v.**

**WERNER ENTERPRISES, INC., d/b/a  
C.L. WERNER, INC., a corporation; and  
DOES 1-100, inclusive,**

**Defendants,**

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**BRIAN VESTER and JOEL MORALES,  
individually and on behalf of all others  
similarly situated,**

**Plaintiff,**

**v.**

**WERNER ENTERPRISES, INC.; and  
DRIVERS MANAGEMENT, LLC,**

**Defendants.**

**8:14CV319**

**DEFENDANTS' MOTION TO CERTIFY  
QUESTION TO THE NEBRASKA  
SUPREME COURT**

**8:15CV287**

**8:17CV145**

COME NOW Defendants Werner Enterprises, Inc. and Drivers Management, LLC (collectively, "Werner"), and pursuant to Nebraska Local Civil Rule 7.4 and Neb. Rev. Stat. § 24-219, move the Court to certify the following novel question of state law to the Nebraska Supreme Court:

Does Nebraska follow the Klinghoffer rule adopted by the Eighth Circuit, which provides that a violation of minimum wage laws does not occur if the employee's weekly pay equals the total weekly hours worked multiplied by the applicable minimum wage?

In support of this Motion, Werner is submitting a brief with this Motion.

WHEREFORE, Werner prays for an Order certifying this novel question of state law to the Nebraska Supreme Court.

WERNER ENTERPRISES, INC., and  
DRIVERS MANAGEMENT LLC,  
Defendants,

By: /s/Joseph E. Jones  
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ATTORNEYS FOR DEFENDANTS

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing was electronically filed with the Clerk of the Court for the United States District Court for the District Court of Nebraska using the CM/ECF system on this 7th day of December, 2018, which system sent notification of such filing to counsel of record.

/s/Joseph E. Jones

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